

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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IN RE: Fosamax Products Liability : MDL No. 1789  
Litigation :  
: 1:07-cv-7276 (JFK)  
: Order


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This Document Relates to: :  
: Preston v. Merck & Co., Inc.  
: 1:07-cv-7276 (JFK)  
: -----X

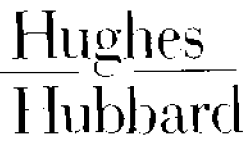
JOHN F. KEENAN, United States District Judge:

In a letter to the Court, a copy of which is attached hereto, Defendant Merck & Co., Inc. seeks to withdraw its motion to dismiss the above-captioned case pursuant to Federal Rules of Civil Procedure 16(f), 37(b)(2)(c), and 41(b). The application is GRANTED and the motion is WITHDRAWN. The Clerk of the Court is respectfully directed to remove docket entry numbers 5, 6, and 7 from the docket of this case.

SO ORDERED.

Dated: New York, New York  
March 19, 2008

  
JOHN F. KEENAN  
United States District Judge



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February 27, 2008

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February 27, 2008

VIA HAND DELIVERY

The Honorable John F. Keenan  
United States District Court  
Southern District of New York  
500 Pearl Street, Room 1930  
New York, New York 10007-1312

Re: In re Fosamax Products Liability Litigation, MDL-1789;  
*Jennifer Bogard, et al. v. Merck & Co., Inc.*, Case No. 1:07-cv-03295-JFK;  
*Ina Cherry v. Merck & Co., Inc., et al.*, Case No. 1:06-cv-06151-JFK;  
*Brian Hamilton v. Merck & Co., Inc., et al.*, Case No. 1:07-cv-07278-JFK;  
*Irene Kligerman v. Merck & Co., Inc.*, Case No. 1:06-cv-05515-JFK;  
*Susan Preston v. Merck & Co., Inc., et al.*, Case No. 1:07-cv-07276-JFK

Dear Judge Keenan,

We write on behalf of Defendant Merck & Co., Inc. ("Merck") to advise the Court as to the status of the five cases listed above where Merck has made motions to dismiss for failure of plaintiffs to provide plaintiff profile forms in compliance with CMO 3.

First, Merck is withdrawing its motions in the following three cases where plaintiffs have now filed plaintiff profile forms:

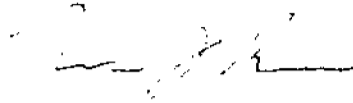
1. *Brian Hamilton v. Merck & Co., Inc., et al.*, (1:07-cv-07278)
2. *Irene Kligerman v. Merck & Co., Inc.*, (1:06-cv-05515)
3. *Susan Preston v. Merck & Co., Inc., et al.*, (1:07-cv-07276)

Second, Merck wishes to inform the Court that plaintiffs have not yet provided plaintiff profile forms in compliance with CMO 3 in the following two cases:

1. *Jennifer Bogard, et al. v. Merck & Co., Inc.*, (1:07-cv-03295)
2. *Ina Cherry v. Merck & Co., Inc., et al.*, (1:06-cv-06151)

The time for briefing in these two cases has now closed and it is Merck's position that it would be appropriate for the Court to rule on the pending motions in these two cases.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Timothy M. O'Brien", is written over a horizontal line.

WJB/yeh

cc (by electronic mail): Timothy M. O'Brien, Esq.  
Daniel A. Osborn, Esq.  
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